

30 SEP 1983

I

98TH CONGRESS
1ST SESSION

H. R. 3939

To amend title 5, United States Code, and the Rules of the House of Representatives and the Senate to make regulations more cost-effective, to ensure review of rules, to improve regulatory planning and management, to provide for periodic review of regulations, and to enhance public participation in and congressional oversight and control of the regulatory process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 1983

Mr. LOTT (for himself, Mr. FISH, Mr. QUILLEN, Mr. BROYHILL, Mr. KINDNESS, Mr. KEMP, Mr. CHENEY, Mr. MARTIN of North Carolina, Mr. EDWARDS of Alabama, Mr. VANDER JAGT, Mr. LAGOMARSINO, Mr. LATTI, Mr. TAYLOR, Mr. LEWIS of California, Mr. HYDE, Mr. PASHAYAN, Mr. THOMAS of California, and Mr. COLEMAN of Missouri), introduced the following bill; which was referred jointly to the Committees on the Judiciary and Rules

A BILL

To amend title 5, United States Code, and the Rules of the House of Representatives and the Senate to make regulations more cost-effective, to ensure review of rules, to improve regulatory planning and management, to provide for periodic review of regulations, and to enhance public participation in and congressional oversight and control of the regulatory process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SHORT TITLE

2 SECTION 1. This Act may be cited as the “Regulatory

3 Oversight and Control Act of 1983”.

TABLE OF TITLES

TITLE I—AGENCY RULEMAKING IMPROVEMENTS

TITLE II—CONGRESSIONAL REVIEW OF AGENCY RULES

TITLE III—REGULATORY OVERSIGHT AND CONTROL AMENDMENTS
TO HOUSE RULES

4 EFFECTIVE DATE

5 SEC. 2. This Act shall take effect one hundred and
6 eighty days after the date of the enactment of this Act,
7 except that the provisions of subchapter II of chapter 6 of
8 title 5, United States Code, as added by section 101(c) of this
9 Act, the amendment made by section 102(a) of this Act, the
10 amendment made by section 104 of this Act (to the extent
11 such amendment applies to rules), and the amendment made
12 by section 201(a) of this Act shall apply only to rules for
13 which notice of proposed rulemaking is given after such effec-
14 tive date and to rules promulgated after such effective date
15 for which a notice of proposed rulemaking is not required.

16 TITLE I—AGENCY RULEMAKING IMPROVEMENTS

17 SEC. 101. (a) Chapter 6 of title 5, United States Code,
18 is amended—

(1) by inserting immediately after the chapter heading the following:

1 “(2) the term ‘benefit’ means any direct or indi-
2 rect beneficial economic, health, safety, environmental,
3 or other effect;

4 “(3) the term ‘cost’ means any direct or indirect
5 adverse economic, health, safety, environmental, or
6 other effect;

7 “(4) the term ‘economic cost’ means a cost (as de-
8 fined in paragraph (3) of this subsection) that is reason-
9 ably quantifiable in monetary terms;

10 “(5) the term ‘rule’ means a rule as defined in
11 section 551(4) of this title but does not include—

12 “(A) a rule of particular applicability relating
13 to rates, wages, corporate or financial structures
14 or reorganizations thereof, prices, facilities, appli-
15 ances, services, or allowances therefor or to valu-
16 ations, costs or accounting, or practices relating
17 to such rates, wages, structures or reorganiza-
18 tions, prices, facilities, appliances, services, or al-
19 lowances;

20 “(B) a rule relating to monetary policy pro-
21 posed or promulgated by the Board of Governors
22 of the Federal Reserve System;

23 “(C) a rule that is required by statute to be
24 made on the record after an opportunity for an
25 agency hearing; or

ILLEGIB

5

ILLEGIB

1 “(D) a rule described in section 553(a) of this
2 title;

3 “(6) the term ‘major rule’ means a rule or group of
4 closely related rules that—

5 “(A) imposes economic costs which are likely
6 to result in an annual impact on the economy of
7 \$100,000,000 or more; or

8 “(B) otherwise is designated a major rule by
9 the agency proposing the rule, or by the President
10 (not later than thirty days after the publication of
11 the notice of proposed rulemaking for that rule)—

12 “(i) because the rule would have signifi-
13 cant adverse effects on the environment,
14 health or safety, competition, employment,
15 investment, productivity, innovation, or the
16 ability of enterprises, the principal places of
17 business of which are in the United States,
18 to compete in domestic or export markets; or

19 “(ii) because the rule would cause a
20 substantial increase in costs or prices for
21 wage earners, consumers, individual indus-
22 tries, nonprofit organizations, Federal, State,
23 or local government agencies, or geographic
24 regions.

1 “(b)(1) Any designation of a major rule made by the
2 President under subsection (a)(6)(B) of this section shall be
3 published in the Federal Register, together with a succinct
4 statement of the basis for the designation. The President may
5 not delegate his authority to make such a designation.

6 “(2) The term ‘major rule’ as defined in subsection
7 (a)(6)(A) of this section does not include—

8 “(A) a rule involving the internal revenue laws of
9 the United States;

10 “(B) a rule relating to the viability, stability, asset
11 powers, or categories of accounts of, or permissible in-
12 terest rate ceilings applicable to depository institutions,
13 the deposits or accounts of which are insured by the
14 Federal Deposit Insurance Corporation, the Federal
15 Savings and Loan Insurance Corporation, or the Share
16 Insurance Fund of the National Credit Union Adminis-
17 tration Board;

18 “(C) a rule promulgated under the Agricultural
19 Adjustment Act to encourage or to regulate the orderly
20 marketing of agricultural commodities and products, or
21 a rule promulgated under the Agriculture Act of 1949
22 to make available price support for agricultural com-
23 modities and products; or

24 “(D) a rule promulgated on an annual basis which
25 governs the hunting of migratory birds.

1 **“§ 622. Additional procedures for major rules**

2 “(a) Before providing notice of proposed rulemaking for
3 any rule, the agency proposing the rule shall determine
4 whether the rule is a major rule and shall include in that
5 notice an explanation of that determination.

6 “(b) Not later than the date on which an agency pro-
7 vides notice of proposed rulemaking for a major rule (or, in
8 the case of a rule designated by the President under section
9 621(a)(6)(B) of this title, as soon as reasonably practicable
10 after such designation), the agency shall issue—

11 “(1) a statement of the need for, and objectives of,
12 the proposed rule;

13 “(2) a description of those reasonable alternatives
14 to the proposed rule and its main elements that may
15 accomplish the stated objectives of the proposed rule in
16 a manner consistent with the applicable statutes, and,
17 subject to paragraph (4)(C) of this subsection, if the
18 proposed rule does not have lower economic costs than
19 each such alternative, an identification of the alterna-
20 tive which has the lowest economic costs;

21 “(3) an analysis of the need, if any, for the estab-
22 lishment or application of requirements in the proposed
23 rule in order to accommodate regional differences, in-
24 cluding economic, environmental, demographic, and
25 land-use differences;

1 “(4)(A) an analysis of the benefits and costs of the
2 proposed rule and of each of the principal alternatives
3 described in paragraph (2) (including, where applicable,
4 the alternative identified in such paragraph having the
5 lowest economic costs);

6 “(B) a comparison of the cost effectiveness of the
7 proposed rule and each of the principal alternatives;
8 and

9 “(C) where it is not expressly or by necessary im-
10 plication inconsistent with the provisions of the statute
11 pursuant to which the agency is proposing the rule, an
12 explanation of how the benefits of the proposed rule
13 are likely to justify the costs of the proposed rule, and
14 an explanation of how the proposed rule is likely to
15 achieve substantially the rulemaking objectives in a
16 more cost-effective manner than the alternatives to the
17 proposed rule;

18 “(5) an analysis, where applicable, of the relative
19 advantages and disadvantages of adopting performance
20 standards rather than design standards in the proposed
21 rule;

22 “(6)(A) an identification of any scientific, econom-
23 ic, or other technical report or study upon which the
24 agency has relied substantially or expects to rely sub-
25 stantially in the rulemaking; and

1 “(B) a description of how the agency has evaluat-
2 ed or intends to evaluate the quality, reliability, accu-
3 racy, and relevance of any such scientific or economic
4 report or study; and

5 “(7) if the proposed rule would regulate activities
6 which, before the rule was proposed, were regulated
7 only by State law, a statement of the legal authority
8 for the agency to regulate such activities.

9 “(c) Not later than the date on which an agency pro-
10 vides notice of the promulgation of a major rule, the agency
11 shall issue—

12 “(1) a statement of the need for, and the objec-
13 tives of, the rule;

14 “(2) a description of those alternatives to the rule
15 with respect to which an analysis was made pursuant
16 to subsection (b)(4);

17 “(3) an analysis of the extent to which the re-
18 quirements of the rule reflect regional differences, in-
19 cluding economic, environmental, demographic, and
20 land-use differences;

21 “(4) an analysis of the benefits and costs of the
22 rule;

23 “(5) an explanation, where applicable, for the
24 adoption of design standards rather than performance
25 standards in the rule;

1 “(6)(A) an identification of any scientific, econom-
2 ic, or other technical report or study upon which the
3 agency relied substantially in the rulemaking; and

4 “(B) a description of how the agency evaluated
5 the quality, reliability, accuracy, and relevance of any
6 such scientific or economic report or study; and

7 “(7) if the rule regulates activities which, before
8 the issuance of the rule, were regulated only by State
9 law, a statement of the legal authority for the agency
10 to regulate such activities.

11 An agency may not issue a final major rule unless, where it is
12 not expressly or by necessary implication inconsistent with
13 the provisions of the statute pursuant to which the agency is
14 promulgating the rule, the agency makes a reasonable deter-
15 mination, based upon the rulemaking file considered as a
16 whole, that the benefits of the rule justify the costs of the
17 rule, and that the rule will substantially achieve the rulemak-
18 ing objectives in a more cost-effective manner than the alter-
19 natives described in the rulemaking, and includes that deter-
20 mination in the material issued pursuant to this subsection.

21 “(d)(1) In lieu of preparing material required by subsec-
22 tion (b) or (c) of this section, an agency may incorporate by
23 reference in any material that it issues pursuant to either
24 such subsection information contained in any other statement

1 or analysis, to the extent that such information satisfies any
2 of the requirements of either such subsection.

3 “(2) Each agency shall include, in the notice of each
4 proposed and final major rule, a statement of how the public
5 may obtain copies of the material issued pursuant to subsec-
6 tions (b) and (c). An agency may charge a reasonable fee for
7 the copying and mailing of such material. Such material shall
8 be furnished without charge or at a reduced charge where the
9 agency determines that waiver or reduction of the fee is pri-
10 marily of benefit to the general public.

11 “(3) Subject to section 553(f)(2) of this title, each
12 agency shall include in the rulemaking file required by sec-
13 tion 553(f) of this title—

14 “(A) a copy of the material issued pursuant to
15 subsections (b) and (c) of this section and of any tran-
16 script prepared pursuant to subsection (e) of this sec-
17 tion; and

18 “(B) a copy of any scientific, economic, or other
19 technical report or study that the agency actually con-
20 sidered in connection with the rulemaking, if informa-
21 tion in such report or study pertains directly to the
22 rulemaking and was prepared by officers or employees
23 of the agency or under contract with the agency.

1 “(4) Each agency shall send to the President a copy of
2 all material issued pursuant to subsection (b) or (c) of this
3 section.

4 “(e)(1) An agency shall, in the case of rulemaking to
5 promulgate a major rule, provide an opportunity for oral
6 presentation of views and information at informal public hear-
7 ings. Transcripts shall be made of all such public hearings.

8 “(2) The agency shall permit cross-examination of indi-
9 viduals who present testimony, documents, or studies at such
10 hearings but only to the extent the agency determines that
11 other procedures would be inadequate for resolution by the
12 agency of significant issues of fact upon which the rule is
13 based. This paragraph shall not apply to any rulemaking for
14 which cross-examination is otherwise required by statute.

15 “(3) The agency shall regulate the course of informal
16 public hearings required by this subsection so as to ensure
17 orderly and expeditious proceedings. The agency may take
18 such actions as it considers necessary to achieve this objec-
19 tive, including—

20 “(A) limiting the time allowed for oral presenta-
21 tions and cross-examination;

22 “(B) establishing procedures designed to limit
23 cross-examination to the significant issues of fact re-
24 ferred to in paragraph (2) of this subsection; and

1 “(C) designating representatives to make oral pre-
2 sentations or engage in cross-examination on behalf of
3 persons with a common interest in the rulemaking.

4 “(f) An agency may delay complying with any require-
5 ment of this section with respect to a rule if—

6 “(A) the agency finds, for good cause, that com-
7 plying with such requirement before making the rule
8 effective would be impracticable, unnecessary, or con-
9 trary to the public interest; and

10 “(B) the agency publishes the rule in the Federal
11 Register with a statement of such finding and a suc-
12 cinct explanation of the reasons therefor.

13 Unless such a rule will, by its terms, cease to be effective
14 within two years after its effective date, the agency shall
15 comply with the requirements of this section with respect to
16 the rule as soon as reasonably practicable after promulgating
17 the rule.

18 “(g) The requirements of this section do not change the
19 standards applicable to agency action under any other provi-
20 sion of law or relieve an agency of procedural requirements
21 imposed by any other provision of law.

22 **“§ 623. Judicial review**

23 “(a) In any action for judicial review of a rule, any ma-
24 terial issued under section 622 of this title may, to the extent
25 relevant, be considered by the court in determining the law-

1 fulness of the rule, but the court shall not have any authority
2 to review agency compliance or noncompliance with the re-
3 quirements of this subchapter or subchapter III or IV, or to
4 compel any action by the agency promulgating the rule or to
5 hold unlawful, set aside, or remand the rule on the ground
6 that the agency has failed to comply with one or more of such
7 requirements.

8 “(b) Any exercise of authority granted under section
9 621, 624, or 641 of this title, or any failure to exercise such
10 authority, by the President or by an officer to whom such
11 authority has been delegated, shall not be subject to judicial
12 review in any manner.

13 **“§ 624. Executive oversight**

14 “(a) The President shall establish guidelines and proce-
15 dures for agency implementation of the requirements of this
16 chapter. The President shall monitor and review agency ac-
17 tions and materials for compliance with the provisions of this
18 chapter and shall comment upon the adequacy of such com-
19 pliance.

20 “(b) Any guidelines and procedures established by the
21 President for agency implementation of this chapter shall be
22 adopted after the public has been afforded notice and an op-
23 portunity to comment thereon, and shall be consistent with
24 the prompt completion of rulemaking proceedings. Such
25 guidelines and procedures may provide for review and evalu-

1 ation by the President of material the agency intends that it
2 will issue under sections 622(b) and 622(c) of this title in
3 order to comment upon whether such material complies with
4 the requirements of this chapter. The time for any such
5 review shall not exceed thirty days following receipt of the
6 material by the President, except that the President may
7 extend the time for such review for one additional period not
8 in excess of thirty days.

9 “(c) Nothing in this section—

10 “(1) provides authority to the President, or limits
11 any authority that the President may possess under the
12 Constitution or other provisions of law—

13 “(A) to prevent an agency from proceeding
14 with a rulemaking or issuing a proposed or final
15 rule; or

16 “(B) to require an agency to modify a pro-
17 posed or final rule or comply with the guidelines
18 or procedures established pursuant to subsection
19 (a) of this section;

20 “(2) changes the standards applicable to agency
21 action under any other provision of law or relieves an
22 agency of procedural requirements imposed by any
23 other provision of law; or

24 “(3) relieves an agency of its responsibilities to
25 comply with the requirements of this chapter.

1 “(d)(1) The President may delegate the authority grant-
2 ed by subsection (a) of this section, in whole or in part, to the
3 Vice President or to an officer within the Executive Office of
4 the President whose appointment has been subject to the
5 advice and consent of the Senate. Notice of any such delega-
6 tion, or any revocation or modification thereof, shall be pub-
7 lished in the Federal Register.

8 “(2) Any person to whom authority is delegated under
9 this subsection shall be subject to all of the provisions of this
10 section applicable to the exercise of such authority by the
11 President.

12 **“§ 625. Review by Comptroller General**

13 “(a) The Comptroller General of the United States may
14 review the compliance by agencies with the provisions of this
15 chapter.

16 “(b) Each agency shall make available to the Comptrol-
17 ler General, in accordance with section 716 of title 31,
18 United States Code, such information as the Comptroller
19 General may request in order to carry out subsection (a).

20 **“§ 626. Authority of agencies and the President**

21 “(a) Nothing in this chapter—

22 “(1) limits agency jurisdiction to prescribe a rule,

23 “(2) relieves an agency of statutory requirements
24 applicable to rulemaking, or

1 “(3) displaces rulemaking authority vested by
2 statute in an agency.

3 “(b) Nothing in this chapter limits the exercise by the
4 President of the authority and responsibility that he other-
5 wise possesses under the Constitution and other laws of the
6 United States.

7 “SUBCHAPTER III—ESTABLISHING AGENCY PRI-
8 ORITIES AND SCHEDULES FOR COMPLETING
9 PROCEDURES

10 “§ 631. **Regulatory agenda**

11 “(a) Each agency shall publish a regulatory agenda in
12 the Federal Register in April and October of each year. Each
13 such agenda shall contain a list of all rules that the agency
14 expects to propose, promulgate, modify, repeal, or otherwise
15 consider in a rulemaking proceeding in the succeeding twelve
16 months. The agendas of all agencies shall be published in a
17 single issue of the Federal Register in accordance with guide-
18 lines issued by the Director of the Office of Management and
19 Budget to ensure a useful, uniform, and consistent
20 publication.

21 “(b) With respect to each rule listed on a regulatory
22 agenda, the agenda shall include a description of the rule; the
23 objectives of and the legal basis for the rule; any dates estab-
24 lished or anticipated by the agency for taking action, includ-
25 ing dates for advance notices of proposed rulemaking, notices

1 of proposed rulemaking, and final agency action; a statement
2 of the sectors of the economy likely to be affected by the rule;
3 and the agency's assessment of whether the rule is or is ex-
4 pected to be a major rule. If consistent with any guidelines
5 issued by the Office of Management and Budget, an agency
6 may consider a group of closely related rules as one rule for
7 the purpose of providing the information required by this
8 subsection.

9 “(c) Each regulatory agenda shall include a list of rules
10 scheduled to be reviewed in accordance with section 641 of
11 this title during the succeeding twelve months and the status
12 of all rules listed on the previous agenda for which rulemak-
13 ing proceedings have not been completed or which have not
14 been explicitly withdrawn from consideration by the agency.

15 “(d) Each regulatory agenda shall include the name, ad-
16 dress, and telephone number of an agency official responsible
17 for handling inquiries about each rule listed on the agenda.

18 “(e) Failure of an agency to include a rule in a regula-
19 tory agenda shall not preclude the agency from proposing or
20 issuing that rule.

21 “SUBCHAPTER IV—AGENCY REVIEW OF RULES

22 “§ 641. Review of rules

23 “(a)(1) Not later than nine months after the effective
24 date of this section, each agency shall prepare and publish in
25 the Federal Register for comment a proposed schedule for

1 the review, in accordance with this section, of each rule of
2 the agency which is in effect on such effective date and
3 which, if adopted on such effective date, would be a major
4 rule under section 621(a)(6)(A) of this title, and of such other
5 rules as the agency has selected for review.

6 “(2) At least ninety days before publishing in the Feder-
7 al Register the proposed schedule required by paragraph (1),
8 each agency shall make the proposed schedule available to
9 the President. The President may select for review under this
10 section any additional rule that the President determines to
11 be a major rule under section 621(a)(6)(A) of this title. The
12 President may not delegate the authority conferred by this
13 paragraph.

14 “(3) Each rule referred to in paragraphs (1) and (2) of
15 this subsection shall cease to be effective not more than ten
16 years after the date on which the final schedule is published
17 pursuant to paragraph (5) of this subsection.

18 “(4) Each proposed schedule required by paragraph (1)
19 shall include a brief explanation of the reasons the agency or
20 the President, as the case may be, considers each rule on the
21 schedule to be a major rule or of the reasons why the agency
22 selected the rule for review, the date on which the rule shall
23 cease to be effective, and the date set by the agency for the
24 completion of the review of each such rule. The agency shall
25 set a date to initiate review of each rule on the schedule in a

1 manner which will ensure the simultaneous review of related
2 items and which will achieve a reasonable distribution of re-
3 views over the period of time covered by the schedule.

4 “(5) Not later than six months after publishing the pro-
5 posed schedule as required by paragraph (1) of this subsec-
6 tion, each agency shall publish in the Federal Register a final
7 schedule for the review of the rules referred to in paragraphs
8 (1) and (2) of this subsection. The final schedule shall include
9 the date on which each such rule shall cease to be effective.
10 Each agency shall publish with the final schedule the re-
11 sponse of the agency to comments received concerning the
12 proposed schedule.

13 “(6) Each agency shall include with the publication in
14 the Federal Register of a major rule a date for completion of
15 the review of the major rule. Each such major rule shall
16 cease to be effective not more than ten years after the date of
17 such publication. The agency shall include with such publica-
18 tion the date on which the rule shall cease to be effective.

19 “(b) The agency shall, pursuant to subsections (c)
20 through (e) of this section, review each rule on the final
21 schedule.

22 “(c) An agency shall publish notice in the Federal Reg-
23 ister of the initiation of the review of a rule under this sec-
24 tion. The notice shall include—

1 “(1) an identification of the legal authority under
2 which the rule was promulgated and a determination
3 by the agency of whether the rule presently fulfills the
4 objectives of that authority;

5 “(2) a brief summary of the benefits and costs of
6 the rule during the calendar year preceding the publi-
7 cation of such notice, and of the benefits and costs the
8 agency projects for the rule if it remains in effect;

9 “(3) an analysis of whether the objectives of the
10 rule can be met through an alternative having lower
11 economic costs than the existing rule;

12 “(4) an analysis of whether greater benefits can
13 be achieved through an alternative having costs which
14 are comparable to those of the existing rule;

15 “(5) a description of any problems encountered by
16 the agency in obtaining compliance with the rule;

17 “(6) an analysis of the extent to which the rule
18 overlaps or duplicates other rules; and

19 “(7) a statement that the agency seeks comments
20 from the public as to whether the rule should be re-
21 tained, amended, or repealed.

22 An agency may include a group of closely related rules in a
23 single notice under this subsection.

24 “(d) After publishing the notice required by subsection
25 (c) of this section, the agency shall provide a period of not

1 less than sixty days during which the public may submit com-
2 ments in response to such notice.

3 “(e) Within one hundred and eighty days after the close
4 of the comment period required by subsection (d) of this sec-
5 tion, the agency shall take one of the following two actions:

6 “(1) The agency shall publish a notice of proposed
7 rulemaking to reissue the rule or to amend the rule
8 and shall conduct a rulemaking proceeding with respect
9 to the rule in accordance with the requirements of this
10 chapter, if applicable, and of section 553 of this title or
11 any other applicable law. Such requirements and other
12 applicable requirements of law, including those relating
13 to judicial review, shall apply to the same extent and
14 in the same manner as in the case of a proposed
15 agency action to issue or amend a rule which is not
16 taken pursuant to the review required by this section.

17 “(2) The agency shall publish a notice of its deci-
18 sion to allow the existing rule to expire, together with
19 a statement explaining the reasons for that decision.

20 Any major rule which an agency determines to reissue or
21 amend pursuant to paragraph (1) of this subsection shall be
22 submitted to the Congress in accordance with the provisions
23 of section 802 of this title in adequate time for review and
24 approval by the Congress, in accordance with chapter 8 of

1 this title, before the date on which the rule shall cease to be
2 effective.

3 “(f) An agency may, with the concurrence of the Presi-
4 dent, alter the timing of review of rules under this section if
5 an explanation of such alteration is published in the Federal
6 Register at the time such alteration is made. The President
7 may direct an agency to alter the timing of the review of
8 rules under this section, except that the President may not
9 increase the number of rules to be reviewed by one agency in
10 any calendar year.”.

11 (d) The chapter heading of chapter 6 of title 5, United
12 States Code, is amended to read as follows:

13 **“CHAPTER 6—PLANNING AND MANAGEMENT OF**
14 **AGENCY FUNCTIONS”.**

15 (e) The chapter analysis of part I of title 5, United
16 States Code, is amended by inserting after the item relating
17 to chapter 5 the following new item:

“6. Planning and Management of Agency Functions..... 601”.

18 **RULEMAKING PROCEDURES**

19 SEC. 102. Section 553 of title 5, United States Code, is
20 amended to read as follows:

21 **“§ 553. Rulemaking**

22 **“(a) This section applies according to the provisions**
23 **thereof, except to the extent that there is involved—**

24 **“(1) a military or foreign affairs function of the**
25 **United States;**

1 “(2) a matter relating to public property or con-
2 tracts or to agency management or personnel practices;
3 or

4 “(3) any interpretative rule or general statement
5 of policy unless such rule or statement has general ap-
6 plicability and substantially alters or creates rights or
7 obligations of persons outside the agency.

8 “(b)(1) Notice of proposed rulemaking shall be published
9 in the Federal Register, unless persons subject to the pro-
10 posed rule are named and either personally served or other-
11 wise have actual notice of the rulemaking in accordance with
12 law. Each notice of proposed rulemaking shall include—

13 “(A) a statement of the time during which public
14 comments will be received concerning the proposed
15 rule, and the time, place, and nature of any informal
16 public hearings to be held concerning the proposed
17 rule;

18 “(B) a statement of the specific objectives to be
19 attained by the proposed rule;

20 “(C) a statement of the specific legal authority
21 under which the rule is proposed;

22 “(D) either the terms or substance of the proposed
23 rule or a description of the subjects and issues in-
24 volved;

1 “(E) a statement that the agency seeks proposals
2 from the public for alternative methods to accomplish
3 the objectives of the proposed rule that are more effec-
4 tive or less burdensome than the methods used in the
5 proposed rule; and

6 “(F) a statement of where the file of the rulemak-
7 ing proceeding required by subsection (f) of this section
8 may be inspected or copies of the file may be obtained.

9 “(2) Except when notice or hearing is required by stat-
10 ute, this subsection and subsection (c) do not apply to rules of
11 agency organization, procedure, or practice, or a rule to the
12 extent the agency for good cause finds that notice and public
13 procedure with respect to the rule are impracticable, unnec-
14 essary, or contrary to the public interest and publishes, at the
15 time of publication of the final rule, such finding and a brief
16 statement of the reasons therefor.

17 “(c)(1) An agency shall provide a public comment period
18 of at least sixty days after the issuance of a notice of pro-
19 posed rulemaking pursuant to subsection (b). During the
20 public comment period, the agency shall give interested per-
21 sons an opportunity to participate in the rulemaking through
22 submission of written data, views, or arguments with or with-
23 out opportunity for oral presentations. After the consideration
24 of the relevant matter presented, the agency shall publish
25 any rule adopted with a concise general statement of the

1 basis and purpose of the rule. The statement shall include a
2 response to the significant issues raised by the comments
3 concerning the proposed rule received by the agency during
4 the public comment period. When rules are required by stat-
5 ute to be made on the record after an opportunity for an
6 agency hearing, sections 556 and 557 of this title apply in-
7 stead of this subsection.

8 “(2) In promulgating a rule, unless otherwise permitted
9 by law, an agency may not rely substantially on any report,
10 study, or other document containing significant factual mate-
11 rial of central relevance to the rulemaking that was not
12 placed in the rulemaking file at the time the notice of pro-
13 posed rulemaking was issued or, if publicly available, identi-
14 fied in such notice, unless—

15 “(A) the public has had an adequate opportunity
16 to comment upon such report, study, or other docu-
17 ment if it was developed by or under contract with the
18 agency; or

19 “(B) such report, study, or other document, if not
20 developed by or under contract with the agency, was
21 placed in the rulemaking file required by subsection (f)
22 of this section promptly after—

23 “(i) its receipt by the agency, in the case of
24 material received by the agency in the course of
25 the rulemaking proceeding, or

1 “(ii) its review by the agency, in the case of
2 material that was obtained by the agency outside
3 the course of the rulemaking proceeding.

4 For purposes of subparagraph (A) of this paragraph, an
5 agency shall be deemed to have afforded an adequate oppor-
6 tunity to comment on any document received during or after
7 the initial comment period if it provides an additional com-
8 ment period of twenty-one days from the date on which
9 notice of such additional comment period is published in the
10 Federal Register.

11 “(d) An agency issuing a final rule shall publish that
12 rule in the Federal Register, unless persons subject to the
13 rule are named and either personally served or otherwise
14 have actual notice of the rule in accordance with law. Such
15 publication or service shall be made not less than thirty days
16 before the effective date of the final rule, except in the case of
17 a rule that grants or recognizes an exemption or relieves a
18 restriction, or as otherwise provided by the agency for good
19 cause found and published with the rule.

20 “(e) Each agency shall give an interested person the
21 right to petition for the issuance, amendment, or repeal of a
22 rule.

23 “(f)(1) Except as provided in paragraph (2) of this sub-
24 section, each agency shall maintain a file of each rulemaking
25 proceeding conducted pursuant to this section, beginning no

1 later than the date on which the agency issues the notice of
2 proposed rulemaking for that proceeding pursuant to subsec-
3 tion (b) or, if the agency is not required to issue such a notice,
4 no later than the date the agency first issues or receives ma-
5 terial required to be included in the file. The file shall be
6 made available to the public and shall include—

7 “(A) the notice of proposed rulemaking and any
8 supplemental notice concerning the rulemaking;

9 “(B) a copy of all written comments on the pro-
10 posed rule which were submitted to the agency after
11 the publication of the notice of proposed rulemaking;

12 “(C) all material which the agency by statute or
13 rule is required to issue in connection with the rule-
14 making or which the agency decides to make part of
15 the record;

16 “(D) a copy of all written material pertaining to
17 the rule, including any drafts of the proposed or final
18 rule, submitted by the agency to the President or the
19 designee directed by the President to review proposed
20 or final rules for their regulatory impact; and

21 “(E) a written explanation of the specific reasons
22 for any significant changes made by the agency in the
23 drafts of the proposed or final rule which respond to
24 any comment received by the agency on the draft pro-
25 posed, proposed draft final, or final rule, made by the

1 **“§ 706. Scope of review**

2 “(a) To the extent necessary to decision and when pre-
3 sented, the reviewing court shall independently decide all rel-
4 evant questions of law, interpret constitutional and statutory
5 provisions, and determine the meaning or applicability of the
6 terms of an agency action. The reviewing court shall—

7 “(1) compel agency action unlawfully withheld or
8 unreasonably delayed; and

9 “(2) hold unlawful and set aside agency action,
10 findings, and conclusions found to be—

11 “(A) arbitrary, capricious, an abuse of discre-
12 tion, or otherwise not in accordance with law;

13 “(B) contrary to constitutional right, power,
14 privilege, or immunity;

15 “(C) in excess of statutory jurisdiction, au-
16 thority, or limitations, or short of statutory right;

17 “(D) without observance of procedure re-
18 quired by law;

19 “(E) unsupported by substantial evidence in
20 a proceeding subject to sections 556 and 557 of
21 this title or otherwise reviewed on the record of
22 an agency hearing provided by statute; or

23 “(F) unwarranted by the facts to the extent
24 that the facts are subject to trial de novo by the
25 reviewing court.

1 “(b) In making the foregoing determinations, the court
2 shall review the whole record or those parts of it cited by a
3 party, and due account shall be taken of the rule of prejudi-
4 cial error.

5 “(c) In deciding questions of law pursuant to the follow-
6 ing sentences of this subsection, the court shall exercise its
7 independent judgment without according any presumption in
8 favor of or against agency action. In making determinations
9 on questions of law, other than statutory jurisdiction, the
10 court shall give the agency’s interpretation such weight as it
11 warrants, taking into account factors such as the discretion-
12 ary authority provided to the agency by law. In making de-
13 terminations of law concerning statutory jurisdiction under
14 subsection (a)(2)(C) of this section, the court shall determine
15 whether the agency’s action is within the scope of the agen-
16 cy’s jurisdiction on the basis of the language of the statute or,
17 in the event of ambiguity, other indicia of ascertainable legis-
18 lative intent.

19 “(d) In determining whether agency action in adopting a
20 rule, other than a rule to which subsection (a)(2)(E) of this
21 section applies, is arbitrary, capricious, an abuse of discre-
22 tion, or otherwise not in accordance with law, the court shall
23 consider whether there is substantial support in the rulemak-
24 ing file, viewed as a whole, for determinations of fact on

1 which the agency was required to rely in adopting the rule or
2 which the agency asserted as the basis for the rule.”.

3 APPEALS OF AGENCY ORDERS

4 SEC. 104. (a) Section 2112(a) of title 28, United States
5 Code, is amended by striking out the last three sentences and
6 inserting in lieu thereof the following: “If proceedings are
7 instituted in two or more courts of appeals with respect to
8 the same order, the court in which the agency, board, com-
9 mission, or officer concerned is to file the record shall be
10 determined as follows:

11 “(1) If within ten days after issuance of the order
12 the agency, board, commission, or officer receives writ-
13 ten notice, in a manner that the agency shall prescribe
14 by rule, that proceedings have been instituted in two or
15 more courts of appeals, the agency, board, commission,
16 or officer shall, promptly after the expiration of that
17 ten-day period, so inform the Administrative Office of
18 the United States Courts and shall identify each such
19 court in which such proceedings are pending. As soon
20 as is practicable after receiving such notice, the Ad-
21 ministrative Office of the United States Courts shall
22 designate one court, according to a system of random
23 selection, from among those identified by the agency,
24 board, commission, or officer, and the record shall be
25 filed in the court so designated.

1 “(2) If within ten days after issuance of the order
2 the agency, board, commission, or officer has received
3 written notice, as provided in the rules prescribed pur-
4 suant to paragraph (1) of this subsection, that proceed-
5 ings have been instituted in only one court of appeals,
6 the record shall be filed in that court notwithstanding
7 the institution of any proceedings in any other court of
8 which such written notice was not received by the
9 agency, board, commission, or officer within that ten-
10 day period.

11 “(3) In all other cases, the record shall be filed in
12 the court in which proceedings with respect to the
13 order were first instituted.

14 All courts in which proceedings have been instituted with
15 respect to the same order, other than the court in which the
16 record is filed pursuant to this subsection, shall transfer those
17 proceedings to the court in which the record is so filed. For
18 the convenience of the parties in the interest of justice, the
19 court in which the record is filed may thereafter transfer all
20 the proceedings with respect to that order to any other court
21 of appeals. Until the record concerning an order is filed in a
22 court pursuant to this subsection, any court of appeals in
23 which proceedings with respect to that order have been insti-
24 tuted within ten days after the issuance of such order may, to
25 the extent authorized by law, postpone the effective date of

1 the order as necessary to permit the designation of a court
2 pursuant to paragraph (1) of this subsection. Such action by
3 the court may thereafter be modified, revoked, or extended
4 by the court in which the record is filed or by any other court
5 of appeals to which the proceedings are transferred.”.

6 (b) Section 604(a) of title 28, United States Code, is
7 amended by redesignating paragraph (17) as paragraph (18)
8 and by inserting immediately after paragraph (16) the follow-
9 ing new paragraph:

10 “(17) Where proceedings with respect to an order
11 of any agency, board, commission, or officer have been
12 instituted in two or more courts of appeals and the
13 agency, board, commission, or officer, pursuant to sec-
14 tion 2112(a)(1) of this title, has been notified of such
15 proceedings within ten days after issuance of the order,
16 administer a system of random selection to determine
17 the appropriate court in which the record is to be
18 filed;”.

19 **PARTICIPATION EXPENSES**

20 SEC. 105. (a) Subchapter I of chapter 5 of title 5,
21 United States Code, is amended by adding at the end thereof
22 the following new section:

23 **“§ 505. Participation expenses**

24 “(a) No agency may, except as provided in section 504
25 of this title or unless specifically authorized by any other stat-

1 ute, provide financial assistance to pay the expenses of per-
2 sons participating or intervening in an agency proceeding.

3 “(b) For the purposes of this section—

4 “(1) ‘agency’ means an agency as defined in sec-
5 tion 551(1) of this title; and

6 “(2) ‘agency proceeding’ means any agency pro-
7 ceedings as defined in section 551(12) of this title.”.

8 (b) The section analysis of chapter 5 of title 5, United
9 States Code, is amended by inserting after the item relating
10 to section 504 the following new item:

“505. Participation expenses.”.

11 TECHNICAL AND CONFORMING AMENDMENTS

12 SEC. 106. (a) Section 551(4) of title 5, United States
13 Code, is amended by striking out “services or allowances
14 therefor or of valuations, costs, or accounting, or practices
15 bearing on any of the foregoing” and inserting in lieu thereof
16 “services, or allowances therefor or of valuations, costs or
17 accounting, or practices relating to such rates, wages, struc-
18 tures or reorganizations, prices, facilities, appliances, serv-
19 ices, or allowances”.

20 (b) Section 551(5) of such title is amended by striking
21 out “rule making” and inserting in lieu thereof “rule-
22 making”.

23 (c) Section 556(d) of such title is amended in the last
24 sentence by striking out “rule making” and inserting in lieu
25 thereof “rulemaking”.

1 (d) Section 557(b) of such title is amended by striking
2 out “rule making” and inserting in lieu thereof “rule-
3 making”.

4 (e) The item relating to section 553 of title 5, United
5 States Code, in the section analysis of chapter 5 of such title
6 is amended by striking out “Rule making” and inserting in
7 lieu thereof “Rulemaking”.

8 **TITLE II—CONGRESSIONAL REVIEW OF AGENCY**
9 **RULES**

10 **SEC. 201.** (a) Part I of title 5 of the United States Code
11 is amended by inserting after chapter 7 the following new
12 chapter:

13 **“CHAPTER 8—CONGRESSIONAL REVIEW OF**
14 **AGENCY RULEMAKING**

“Sec.

“801. Definitions.

“802. Congressional review of agency rules.

“803. Procedure for committee consideration of resolutions.

“804. Procedure for floor consideration of resolutions.

“805. Computation of calendar days of continuous session.

“806. Rulemaking power of Congress.

“807. Effect on judicial review.

15 **“§ 801. Definitions**

16 **“(a) For purposes of this chapter—**

17 **“(1) the term ‘agency’ means an agency as de-**
18 **finied in section 551(1) of this title;**

19 **“(2) the term ‘rule’ means a rule as defined in**
20 **section 621(5) of this title which is subject to section**
553 of this title;

1 “(3) the term ‘major rule’ means a major rule
2 within the meaning of section 621 of this title;

3 “(4) the term ‘emergency rule’ means a rule
4 which an agency may make effective, for a period of
5 not more than two hundred and ten days, notwith-
6 standing any requirement for public notice and com-
7 ment and is promulgated pursuant to a finding by the
8 agency that delay in the effective date would—

9 “(A) seriously injure an important public
10 interest,

11 “(B) substantially frustrate legislative poli-
12 cies, or

13 “(C) seriously harm a person or class of
14 persons without serving any important public
15 interest;

16 “(5) the term ‘promulgate’ or ‘promulgation’
17 means to file or the filing of a final rule with the Office
18 of the Federal Register for publication;

19 “(6) the term ‘appropriate committee’ means—

20 “(A) the one committee of each House of
21 Congress which has primary legislative jurisdic-
22 tion over the statute under which a rule is pro-
23 mulgated or over the agency which has promul-
24 gated a rule, or

9 “(7) the term ‘appropriate resolution’ means—

ILLEGIB

25

1 on , 19 .', with the appropriate
2 title of the rule, agency, and date inserted in the
3 blanks, respectively; and

4 “(8) the term ‘transmitted to the Congress’, with
5 respect to a rule, means transmitted to the Congress
6 pursuant to section 802(a)(1) of this title.

7 **“§ 802. Congressional review of agency rules**

8 “(a)(1) On the first day on which both Houses of Con-
9 gress are in session after the promulgation of a rule, the
10 agency shall transmit a copy of the rule to the Secretary of
11 the Senate and the Clerk of the House of Representatives.
12 Such rule shall be considered only as a recommendation of
13 the agency to the Congress and shall have no force and effect
14 as a rule unless the rule has become effective in accordance
15 with this section.

16 “(2) A major rule may not take effect unless an appro-
17 priate resolution is enacted within ninety days after the date
18 on which the major rule is transmitted to the Congress.

19 “(3)(A) Subject to subparagraph (B), a rule other than a
20 major rule may not take effect if within ninety days after the
21 rule is transmitted to the Congress an appropriate resolution
22 is enacted with respect to the rule.

23 “(B) A rule other than a major rule may take effect—

24 “(i) at the end of the period of sixty days after the
25 date the rule is transmitted to the Congress if neither

1 House of Congress has completed action on an appro-
2 priate resolution with respect to the rule;

3 “(ii) upon the rejection by one House of an appro-
4 priate resolution with respect to the rule; or

5 “(iii) on such later date as the rule may specify.

6 “(b)(1) An agency may not promulgate a new rule sub-
7 stantially the same as—

8 “(A) a major rule for which an appropriate resolu-
9 tion has not been enacted; or

10 “(B) any other rule subject to this section for
11 which an appropriate resolution has been enacted.

12 “(2) If a rule of an agency does not become effective
13 under subsection (a) and the agency, subject to paragraph (1),
14 promulgates a rule which relates to the same subject matter
15 as the disapproved rule, such rule may be based in whole or
16 in part on the rulemaking record of the first rule. The new
17 rule shall be subject to subsection (a).

18 “(c) If a rule which was promulgated subject to a statu-
19 tory time limit for rulemaking does not become effective
20 under subsection (a), the statutory time limit shall apply also
21 to the rulemaking begun as a result of the disapproval of the
22 rule but shall begin on the date on which the rule was pre-
23 cluded from becoming effective under subsection (a).

24 “(d)(1) On the same day on which an agency transmits a
25 rule to the Congress pursuant to this section, that agency

1 shall transmit a copy of the rule to the Comptroller General
2 of the United States.

3 “(2) In order to assist the Congress in the exercise of its
4 functions under this chapter, the Comptroller General may,
5 on his own initiative, or shall, upon the request of an appro-
6 priate committee, inform such committee as promptly as
7 practicable as to whether the Comptroller General considers
8 the rule to be consistent with the statutory authority under
9 which the rule was promulgated.

10 “(e) The provisions of paragraphs (2), (3), and (4) of
11 subsection (a) shall not apply with respect to an emergency
12 rule if the agency submits to the appropriate committees a
13 written notice of its determination that the rule is an emer-
14 gency rule and of the period of time during which the rule
15 will be effective, and of its intention to issue a final rule to
16 take effect when the emergency rule expires, if the agency
17 determines such a final rule is necessary. Any such final rule
18 shall be subject to all the provisions of subsection (a).

19 **“§ 803. Procedure for committee consideration of resolu-**
20 **tions**

21 “(a)(1) With respect to a major rule, the chairman of the
22 appropriate committee to which it has been referred, or a
23 Member designated by the chairman, shall introduce an ap-
24 propriate resolution (by request) no later than the first day of
25 the session following the day on which the rule is transmitted

1 to the Congress, and the resolution shall be referred to the
2 appropriate committee.

3 “(2) The appropriate committee to which an appropriate
4 resolution with respect to a major rule is referred shall under-
5 take a review of the rule and report the resolution, together
6 with its recommendations, to the House involved not later
7 than forty-five days after the date on which the rule is trans-
8 mitted to the Congress.

9 “(3) If the appropriate committee to which an appropri-
10 ate resolution with respect to a major rule is referred pursu-
11 ant to paragraph (1) has not reported the resolution at the
12 end of forty-five days after the rule is transmitted to the Con-
13 gress, the committee shall be deemed to be discharged from
14 further consideration of the resolution, and the resolution
15 shall be placed on the appropriate calendar of the House
16 involved.

17 “(b)(1) An appropriate resolution with respect to any
18 rule other than a major rule shall be referred to the appropri-
19 ate committee.

20 “(2) It shall be in order to present to the Secretary of
21 the Senate or the Clerk of the House in writing a motion for
22 consideration of an appropriate resolution with respect to a
23 rule other than a major rule at any time after the introduction
24 of the resolution but not later than twenty-five days after the
25 rule is transmitted to the Congress.

1 “(3) If a motion for consideration described in paragraph
2 (2) is signed by twenty-five Members of the Senate or one
3 hundred and nine Members of the House, as the case may be,
4 not later than thirty days after the rule involved is transmit-
5 ted to the Congress, the motion shall be entered on the Jour-
6 nal, printed with the signatures thereto in the Congressional
7 Record, and the Secretary of the Senate or the Clerk of the
8 House shall notify the appropriate committee of the motion.
9 The appropriate committee shall then undertake a review of
10 the rule and report the appropriate resolution to which the
11 motion relates, together with its recommendations, not later
12 than forty-five days after the rule is transmitted to the Con-
13 gress.

14 “(4) If the appropriate committee has not reported the
15 appropriate resolution at the end of that period of forty-five
16 days, pursuant to paragraph (3), then the committee shall be
17 deemed to be discharged from further consideration of the
18 resolution and the resolution shall be placed on the appropri-
19 ate calendar of the House involved.

20 “(5) An appropriate committee may review any rule re-
21 ferred to it and may report any appropriate resolution re-
22 ferred to it not later than forty-five days after the rule which
23 is the subject of the resolution is transmitted to the Congress,
24 and the resolution shall be referred to the appropriate calen-
25 dar of the House involved.

1 “(c) Whenever a committee reports an appropriate reso-
2 lution pursuant to this chapter, the resolution shall be accom-
3 panied by a committee report which shall include the text of
4 the rule, together with the agency’s explanation of the rule
5 and the committee’s reasons for recommending the adoption
6 or rejection of the resolution.

7 **“§ 804. Procedure for floor consideration of resolutions**

8 “(a)(1) When a committee of the Senate has reported or
9 has been discharged from the further consideration of an ap-
10 propriate resolution, it shall be in order at any time thereafter
11 (even though a previous motion to the same effect has been
12 disagreed to) to move to proceed to the consideration of the
13 resolution.

14 “(2) When a committee of the House has reported or
15 has been discharged from the further consideration of an ap-
16 propriate resolution, the appropriate calendar on which the
17 resolution is placed shall be the Regulatory Review Calendar
18 in accordance with clause 1 of rule XIII of the Rules of the
19 House of Representatives.

20 “(b)(1) Any motion in the Senate to proceed to the con-
21 sideration of an appropriate resolution is privileged and is not
22 debatable. The motion shall not be subject to any intervening
23 motion except a motion to lay on the table. An amendment to
24 the motion is not in order, and it is not in order to reconsider
25 the vote by which the motion is agreed to or disagreed to.

1 “(2) Any motion in the House of Representatives to
2 proceed to the consideration of an appropriate resolution is
3 privileged but may only be made on days designated in clause
4 9 of rule XXIV of the Rules of the House and in accordance
5 with procedures prescribed by that clause.

6 “(c) Debate on an appropriate resolution with respect to
7 a major rule shall be limited to not more than two hours, and
8 with respect to any rule other than a major rule shall be
9 limited to not more than one hour, to be equally divided be-
10 tween the proponents and opponents of the resolution. A
11 motion to further limit debate is not debatable. An amend-
12 ment to or a motion to recommit the resolution is not in order
13 and it is not in order to move to reconsider the vote by which
14 the resolution is agreed to or disagreed to.

15 “(d)(1) If, before the passage by one House of an appro-
16 priate resolution of that House with respect to a rule, that
17 House receives an appropriate resolution with respect to the
18 same rule from the other House, then—

19 “(A) at the end of the period of seventy-five days
20 after the rule was transmitted to the Congress pursu-
21 ant to section 802(a) of this title—

22 “(i) if the appropriate resolution from the
23 other House has been referred to the appropriate
24 committee and that committee has not reported or
25 been discharged from further consideration of that

1 resolution or another appropriate resolution with
2 respect to the same rule, that committee shall be
3 deemed to be discharged from further considera-
4 tion of the resolution of the other House and the
5 resolution shall be placed on the appropriate cal-
6 endar of the House involved; or

7 “(ii) if the appropriate resolution from the
8 other House has not been referred to the appro-
9 priate committee, the resolution shall be placed on
10 the appropriate calendar of the House involved;
11 and

12 “(B) the vote on final passage shall be on the ap-
13 propriate resolution from the other House.

14 “(2) Except as provided in paragraph (1), it shall not be
15 in order to consider more than one appropriate resolution
16 with respect to the same rule in the same Congress, except
17 that this paragraph shall not prohibit the consideration in one
18 House of an appropriate resolution from the other House if
19 the House receiving it has already passed an appropriate res-
20 olution introduced in that House with respect to the same
21 rule.

22 **“§ 805. Computation of calendar days of continuous**
23 **session**

24 “(a) For purposes of this chapter—

1 “(1) ‘days’ means only days of continuous session
2 of Congress;

3 “(2) the days on which either House of Congress
4 is not in session because of an adjournment of more
5 than three days are excluded in the computation of
6 days of continuous session; and

7 “(3) the days occurring during the period begin-
8 ning on the date on which an appropriate resolution is
9 adopted by the Congress and ending either on the date
10 on which the resolution is approved by the President,
11 or, if the resolution is disapproved by the President, on
12 the date on which the resolution is returned to the
13 Congress with the President’s disapproval, are ex-
14 cluded in the computation of days of continuous
15 session.

16 “(b) If an adjournment sine die of a Congress occurs
17 after an agency has submitted a rule under section 802 of this
18 title and before the expiration of the applicable period speci-
19 fied in such section, the agency shall—

20 “(1) resubmit the rule to the Congress; or

21 “(2) initiate rulemaking proceedings to amend or
22 repeal such rule.

23 If the rule is resubmitted or an amended rule is submitted to
24 the Congress, the periods specified in section 802 of this title
25 shall begin on the date of such resubmission or submission.

1 **“§ 806. Rulemaking power of Congress**

2 “The provisions of sections 803 and 804 of this title are
3 enacted by the Congress—

4 “(1) as an exercise of the rulemaking power of the
5 Senate and the House of Representatives, respectively,
6 and as such they are deemed a part of the rules of
7 each House, respectively, but applicable only with re-
8 spect to the procedure to be followed in that House in
9 the case of resolutions described in section 802 of this
10 title, and such provisions supersede other rules only to
11 the extent that they are inconsistent with such other
12 rules; and

13 “(2) with full recognition of the constitutional
14 right of either House of the Congress to change the
15 rules (so far as relating to the procedure of that House)
16 at any time, in the same manner and to the same
17 extent as in the case of any other rule of that House.

18 **“§ 807. Effect on judicial review**

19 “(a) Congressional inaction on or rejection of an appro-
20 priate resolution disapproving a rule shall not be deemed an
21 expression of approval of that rule.

22 “(b) The enactment of an appropriate resolution approv-
23 ing a rule shall not be construed to create any presumption of
24 validity with respect to such rule and shall not affect the
25 review of the rule under chapter 7 of title 5, United States
26 Code.”

1 (b) The table of chapters for part I of title 5 is amended
 2 by inserting immediately after the item relating to chapter 7
 3 the following:

“8. Congressional Review of Agency Rulemaking 801”.

4 (c) The provisions of chapter 8 of title 5, United States
 5 Code, shall supersede any other provision of law governing
 6 procedures for congressional review of agency rules to the
 7 extent such other provisions are inconsistent with such
 8 chapter.

9 TITLE III—REGULATORY OVERSIGHT AND
 10 CONTROL AMENDMENTS TO HOUSE RULES

11 HOUSE REGULATORY REVIEW CALENDAR

12 SEC. 301. (a) Rule XIII of the Rules of the House of
 13 Representatives is amended—

14 (1) in clause 1 by striking out “three” and insert-
 15 ing in lieu thereof “four”, and

16 (2) by adding at the end thereof the following:

17 “Fourth. A Regulatory Review Calendar, to which shall be
 18 referred all resolutions in accordance with the provisions of
 19 chapter 8 of title 5, United States Code.”.

20 (b) Rule XXIV of the Rules of the House of Repre-
 21 sentatives is amended by adding at the end thereof the fol-
 22 lowing new clause:

23 “9. (a) On the first and third Monday and the second
 24 and fourth Tuesday of each month, immediately following the
 25 approval of the Journal, the Speaker shall direct the Clerk to

1 call the resolutions on the Regulatory Review Calendar, and
2 priority consideration shall be given to resolutions respecting
3 any rule for which the review period in the House under
4 section 802(a) of title 5, United States Code, will expire
5 before the next calling of resolutions on the Calendar under
6 this paragraph. It shall be in order on any such day to consid-
7 er a motion to dispense with the further reading of the Calen-
8 dar, and such motion shall not be subject to debate.

9 “(b) Upon the calling of a resolution on the Regulatory
10 Review Calendar under paragraph (a), it shall be in order to
11 move to proceed to the immediate consideration of the resolu-
12 tion. The motion is privileged and is not debatable, except in
13 the case of a resolution discharged from a committee pursu-
14 ant to a motion for consideration under section 803 of title 5,
15 United States Code, in which case the motion shall be debat-
16 able for twenty minutes, equally divided between proponents
17 and opponents of the motion. The motion shall not be subject
18 to an intervening motion, except a motion to lay on the table
19 and a motion to postpone to a day certain. An amendment to
20 the motion is not in order and it is not in order to move to
21 reconsider the vote by which the motion is agreed to or disa-
22 greed to.

23 “(c) Debate on a resolution with respect to a major rule
24 shall be limited to not more than two hours, and on a resolu-
25 tion with respect to any other rule shall be limited to not